

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4718-01
Bill No.: SJR 40
Subject: Elections; Employees - Employers; Labor and Management
Type: Original
Date: February 8, 2010

Bill Summary: This proposal requires voting by secret ballot for elections and employee representation.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
General Revenue	\$0 or (More than \$7,000,000)	\$0	\$0
Total Estimated Net Effect on General Revenue Fund	\$0 or (More than \$7,000,000)	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 7 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
Total Estimated Net Effect on FTE	0	0	0

☐ Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

☐ Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of the Attorney General** assume that any potential costs arising from the proposal could be absorbed with existing resources.

Officials from the **Department of Labor and Industrial Relations (DOLIR)** state that while the State Board of Mediation currently conducts secret ballots, the proposed bill may be used to support election challenges and result in an increased number of hearings held. The Department estimates an increase in travel costs and administrative expenses. It is not possible to determine the exact fiscal impact at this time due to the uncertainty of workload. DOLIR assumes a total cost of under \$100,000.

Oversight assumes that the number of challenges would be few and the Department of Labor and Industrial Relations can absorb the costs. Should the workload significantly increase then the Department could request additional funding through the appropriation process once the exact need is identified.

Officials from the **Office of Administration - Division of Personnel (COA)** state the proposed constitutional amendment would provide the guaranteed right of individuals to vote by secret ballot where state or federal law requires: public elections for public office; public votes on initiatives or referenda; or designations or authorizations of employee representation. This constitutional amendment would require a secret ballot for any such election.

It is the responsibility of the Office of Administration / Division of Personnel (OA/DOP) Director (RSMo 36.510.1.(6)) to "establish and direct a central labor relations function for the state which shall coordinate labor relations activities in individual state agencies, including participation in negotiations and approval of agreements relating to uniform wages, benefits and those aspects of employment which have fiscal impact on the state."

Currently, public sector union elections in Missouri are conducted via secret ballot; therefore, the proposed constitutional amendment will not affect OA/DOP's operations in regards to labor relations.

It is difficult to determine long range implications of the proposed constitutional amendment. There is proposed federal legislation (the Employee Free Choice Act) that could modify the National Labor Relations Act (NLRA), ending the requirement that secret ballots be used by employees when deciding whether to ask for union representation. Should both the proposed

ASSUMPTION (continued)

federal and state constitutional amendments pass, labor organizations in the State of Missouri may wish to challenge this amendment in court, which could cause the state to incur litigation costs. It would be difficult to anticipate whether this will occur; and if so, how many court cases would be filed; what the findings of the court would be; and, what actions would be required as a result of the court's findings. Therefore, it is difficult to determine the long range implications of the proposed constitutional amendment.

Officials at the **Office of the Secretary of State (SOS)** assume unless a special election is called for the purpose, Joint Resolutions are submitted to a vote of the people at the next general election. If a special election is called to submit a Joint Resolution to a vote of the people, section 115.063.2 RSMo requires the state to pay the costs. Article III section 52(b) of the Missouri Constitution authorizes the general assembly to order a special election for measures referred to the people and Article XII section 2(b) authorizes the governor to call a special election to submit constitutional amendments to a vote of the people.

The SOS is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article I, Section 26, 27, 28 of the Missouri Constitution and Section 116.230-116.290, RSMo. The Secretary of State's office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with \$1.3 million historically appropriated in odd numbered fiscal years and \$100,000 appropriated in even numbered fiscal years to meet these requirements. The appropriation has historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2009, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost \$1.35 million to publish (an average of \$270,000 per issue). Therefore, the Secretary of State's office assumes, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. However, because these requirements are mandatory, we reserve the right to request funding to meet the cost of our publishing requirements if the Governor and the General Assembly change the amount or eliminate the estimated nature of our appropriation.

Oversight has reflected in this fiscal note, the state potentially reimbursing local political subdivisions the cost of having this joint resolution voted on during a special election in fiscal year 2011. This reflects the decision made by the Joint Committee on Legislative Research, that the cost of the elections should be shown in the fiscal note. The next scheduled general election is in November 2010 (FY 2011). It is assumed the subject within this proposal could be on that ballot; however, it could also be on a special election called for by the Governor. Therefore,

ASSUMPTION (continued)

Oversight will reflect a potential election cost reimbursement to local political subdivisions in FY 2011.

To estimate the expense the state would incur for reimbursing local political subdivisions for a special election, **Oversight** requested expense estimates from all election authorities for an election. Eighty-six out of the one hundred fifteen election authorities responded to Oversight's request. From these respondents; the total election expense that would have to be reimbursed by the state government is over \$7 million. Therefore, Oversight will reflect a potential cost borne by the state in FY 2011 of over \$7 million for reimbursement to the local political subdivisions. Oversight assumes the Governor could call for a special election to be held prior to November, 2010 regarding this joint resolution; however, if a special election is not called, the subject will be voted on at the general election in November, 2010.

<u>FISCAL IMPACT - State Government</u>	FY 2011 (10 Mo.)	FY 2012	FY 2013
GENERAL REVENUE			
<u>Expense</u> - reimbursement of local political subdivisions for special election costs	\$0 or (More than <u>\$7,000,000</u>)	<u>\$0</u>	<u>\$0</u>
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	\$0 or (More than <u>\$7,000,000</u>)	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2011 (10 Mo.)	FY 2012	FY 2013
LOCAL POLITICAL SUBDIVISIONS			
<u>Income</u> - cost reimbursement from the State for special election	\$0 or More than \$7,000,000	\$0	\$0
<u>Expense</u> - cost for special election	\$0 or (More than \$7,000,000)	<u>\$0</u>	<u>\$0</u>
ESTIMATED NET EFFECT TO LOCAL POLITICAL SUBDIVISIONS	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

This constitutional amendment, if approved by the voters, would ensure the right of individuals to vote by secret ballot when state or federal law requires public elections for public office or on initiatives or referenda, or where state or federal law requires designations or authorizations of employee representation.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of the Secretary of State
Department of Labor and Industrial Relations
Office of the Attorney General
Office of Administration

A handwritten signature in black ink that reads "Mickey Wilson". The signature is written in a cursive, flowing style.

Mickey Wilson, CPA
Director
February 8, 2010